

**Ex. D**

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

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ELASTICSEARCH, INC., a ) Volume 1  
Delaware corporation, )  
ELASTICSEARCH B.V., a )  
Dutch corporation, )  
) Case No.  
Plaintiffs, ) 4:19-cv-05553-YGR  
)  
vs. )  
)  
Floragunn GMBH, a German )  
corporation, )  
)  
Defendant. )  
)

\*\* HIGHLY CONFIDENTIAL \*\*  
\*\* UNDER PROTECTIVE ORDER \*\*  
\*\* ATTORNEY'S EYES ONLY \*\*

REMOTE VIDEOTAPED DEPOSITION  
OF  
JOCHEN MICHAEL KRESSIN  
Monday, March 1, 2021  
Berlin, Germany

Reported by: B. Suzanne Hull, CSR No. 13495

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APPEARANCES

For Plaintiffs: O'Melveny & Myers, LLP  
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mkwun@kblfirm.com

The Videographer: Jennifer Williams

The Interpreter: Kathi Stock

1 Berlin, Germany

2 Monday, March 1, 2021; 4:04 p.m.

3 (Central European Time)

4 Tempelhofer Ufer 16

5

6 THE VIDEOGRAPHER: Good afternoon.

7 We are on the record on March 1st at 04:04:10

8 4:04 p.m. Central European Time. 04:04:15

9 Audio and video recording will take place 04:04:19

10 unless all parties agree to go off the record. 04:04:22

11 This is media one of the video-recorded 04:04:25

12 deposition of Jochen Kressin, taken by counsel for 04:04:29

13 the plaintiff in the matter of Elasticsearch, Inc., 04:04:31

14 et al., versus floragunn GmbH, filed in the 04:04:39

15 U.S. District Court, Northern District of California, 04:04:41

16 Oakland Division, Case Number 4:19-cv-05553-YGR. 04:04:44

17 This deposition is being held remotely via 04:04:52

18 Zoom. 04:04:56

19 My name is Jennifer Williams, from Veritext. 04:04:56

20 I'm the videographer. The court reporter is 04:04:59

21 Suzanne Hull, from Veritext. 04:05:01

22 I am not related to any party in this 04:05:04

23 action, nor am I financially interested in the 04:05:07

24 outcome. 04:05:09

25 Counsel will now state their appearances and 04:05:11

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1 affiliations for the record. 04:05:14

2 MR. EBERHART: David Eberhart, and with me 04:05:16

3 is my colleague, Daniel Leigh, on behalf of 04:05:18

4 plaintiffs. 04:05:22

5 MR. KWUN: Michael Kwun, on behalf of the 04:05:22

6 witness and defendant. 04:05:24

7 THE VIDEOGRAPHER: Thank you. 04:05:26

8 Will the court reporter please swear in the 04:05:27

9 witness and interpreter. 04:05:29

10 THE REPORTER: My name is Suzanne Hull, 04:05:32

11 a certified shorthand reporter in the state of

12 California. Because I am in a different area than

13 the deponent, will the attorneys please indicate your

14 agreement to stipulate that I may swear in the

15 witness by stating your name and your agreement on

16 the record. 04:05:49

17 MR. EBERHART: David Eberhart. 04:05:49

18 So stipulated. 04:05:50

19 MR. KWUN: Michael Kwun. 04:05:51

20 So stipulated. 04:05:52

21 THE REPORTER: Thank you. 04:05:53

22 Raise your right hand, please, for the 04:05:55

23 interpreter. 04:05:58

24

25 KATHI STOCK,

1 having been called as an interpreter to interpret  
2 English into German and German into English, was duly  
3 sworn to interpret the proceedings to the best of her  
4 abilities and interpreted as follows:

5 04:06:05

6 THE INTERPRETER: I do. 04:06:06

7 THE REPORTER: Raise your right hand, sir. 04:06:07

8 THE WITNESS: Me? 04:06:12

9 THE REPORTER: Yes, you. 04:06:13

10 04:06:13

11 JOCHEN MICHAEL KRESSIN, 04:06:13

12 called as a witness by counsel for Plaintiffs, being 04:06:13

13 first duly sworn, testified as follows: 04:06:13

14 04:06:20

15 THE WITNESS: I do. 04:06:20

16 THE REPORTER: Interpreter? 04:06:22

17 THE INTERPRETER: Yes, I do. 04:06:24

18 This is Kathi Stock. I'm located in 04:06:27

19 Lewisville, Texas. I'm a licensed master court 04:06:31

20 interpreter for German, and I'm an accredited 04:06:35

21 translator for the U.S. State Department. 04:06:38

22 THE REPORTER: Thank you. 04:06:42

23 Mr. Eberhart. 04:06:44

24 04:06:44

25 ///

1 as their parent company, Elastic N.V. and any of 04:08:35  
2 their related companies. 04:08:38  
3 Does that make sense? 04:08:40  
4 A. That makes sense, yes. 04:08:41  
5 Q. Okay. And so when I ask you questions about 04:08:42  
6 Elastic, you will -- you will answer with -- with 04:08:44  
7 that understanding of -- of the term. 04:08:46  
8 Is that fair? 04:08:47  
9 A. Yes. 04:08:48  
10 Q. What is Search Guard? 04:08:49  
11 A. Search Guard is a security plugin for 04:08:52  
12 Elasticsearch and Kibana. 04:08:57  
13 Q. Have you ever stated that floragunn is very 04:08:58  
14 fast with releasing new Search Guard versions 04:09:03  
15 whenever an Elasticsearch and Kibana version comes 04:09:06  
16 out? 04:09:09  
17 A. Yes. 04:09:09  
18 We did use that in marketing -- for 04:09:10  
19 marketing purposes, yes. 04:09:13  
20 Q. And have you ever expressed the view that 04:09:14  
21 while floragunn would be extra careful to obey any 04:09:17  
22 copyright law that applies to floragunn, floragunn 04:09:21  
23 can actually learn something from the X-Pack code? 04:09:25  
24 In the past that was not possible because it would 04:09:29  
25 have meant decompiling, which you never did. 04:09:32

1 STATE OF CALIFORNIA )  
 ) ss.  
2 COUNTY OF KERN )  
3  
4

5 I, B. Suzanne Hull, a Certified Shorthand  
6 Reporter in the State of California, holding  
7 Certificate Number 13495, do hereby certify that  
8 JOCHEN MICHAEL KRESSIN, the witness named in the  
9 foregoing deposition, was by me duly sworn; that said  
10 deposition, was taken Monday, March 1, 2021, at the  
11 time and place set forth on the first page hereof.

12 That upon the taking of the deposition, the  
13 words of the witness were written down by me in  
14 stenotypy and thereafter transcribed by computer  
15 under my supervision; that the foregoing is a true  
16 and correct transcript of the testimony given by the  
17 witness.

18 Pursuant to Federal Rule 30(e), transcript  
19 review was requested.

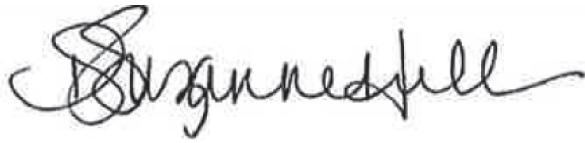
20 I further certify that I am neither counsel  
21 for nor in any way related to any party to said  
22 action, nor in any way interested in the result or  
23 outcome thereof.

24 ///

25 ///



1 Dated this 5th day of March, 2021, at  
2 Bakersfield, California.

3  
4 

5 B. Suzanne Hull, CSR No. 13495  
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